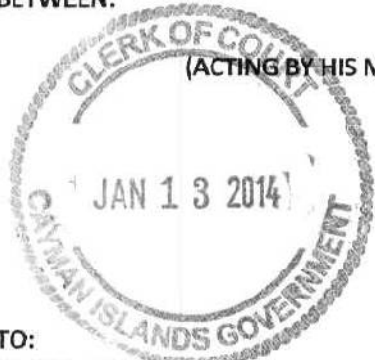


IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION



CAUSE NO: *Go006* OF 2014

BETWEEN:



GEOVANI OSVALDO SWABY
(ACTING BY HIS MOTHER AND NEXT FRIEND ISMARAY ESPINOSA PEREZ)

PLAINTIFF

AND:

MATTHEW CARLYLE EBANKS



DEFENDANT

WRIT OF SUMMONS

TO:

Matthew Carlyle Ebanks
78 Glade Drive
West Bay
Grand Cayman

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim set out on the next page.

Within 14 days after the service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495G, George Town, Grand Cayman, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this *13th* day of January 2014.

NOTE - This Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with the date of issue unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.

And as a Noticed Party to:
Saxon Insurance Company Limited
14 Saturn Close
Eastern Avenue

STATEMENT OF CLAIM

1. On the 25th August 2013 at approximately 3.45 in the afternoon the Plaintiff was cycling along the left edge of Nettie Rivers Lane, West Bay, Grand Cayman travelling on the correct side of the road.
2. The defendant was driving a vehicle registration 114380, being a White Toyota Avalon and was driving along Nettie Rivers Lane in the direction of the plaintiff.
3. As the defendant approached a right hand bend in the road he lost control of his vehicle veering to his left to avoid a stationary vehicle parked on the left of the road and then veering right across the middle of the road and drove into the plaintiff on the left edge of the road.
4. The plaintiff was struck, knocked down and injured by the vehicle driven by the defendant.
5. At all material times the Defendant was insured to drive the motor vehicle registration number 114380 with Saxon Insurance who had issued a policy of insurance relating to the vehicle in accordance with the Motor Insurance (Third Party Risks Law).
3. The accident was caused by the negligence of the Defendant.

Particulars of negligence

The Defendant was negligent in that he:

- (a) drove too fast in all of the circumstances;
 - (b) failed to keep any or any proper look out;
 - (c) failed to see the Plaintiff in time or at all;
 - (d) (e) failed by means of his lights or horn or otherwise howsoever to warn the plaintiff of his approach and intention;
 - (i) failed to apply his brakes in time or at all;
 - (j) failed to stop, to slow down, to swerve or otherwise so to manage or control his vehicle as to avoid the aforesaid collision;
 - (k) struck, knocked down and injured the Plaintiff;
 - (l) exposed the Claimant to a foreseeable risk of injury;
 - (m) failed to take any or any adequate care for the safety of the Plaintiff.
4. As a result the Plaintiff who is now aged 10 years old, having been born on 6th December 2003 suffered pain, injury, loss and damage.

Particulars of injury

5. The plaintiff was knocked to the ground by the impact with the vehicle and was taken to George Town hospital by car shortly thereafter.
6. The plaintiff sustained the following injuries:
 - 6.1 multiple lacerations and abrasions to the head and face.
 - 6.2 multiple teeth avulsions and fractures.

- 6.3 multiple lacerations and abrasions to the upper limbs and left lower limb.
- 6.4 fracture of the shaft of the right tibia.
- 6.4 fractures to both coracoid processes of the mandible and another in the left inferior ramus.
- 6.5 an incomplete fracture of the left maxilla at the floor of the nasal cavity.
- 6.6 fracture of medial and middle cuneiform in left foot.
- 6.7 fracture to left 10th/11th rib.
7. The plaintiff underwent surgery at George Town hospital on the 25th August 2013 on his right tibial fracture with closure of the lacerated wounds on both lower limbs, upper limbs and right loin.
8. He further underwent surgery the same day on his fractured mandible, to insert an arch bar, to repair the soft tissue injuries to his facial region and remove pieces of teeth implanted in his mouth, lips and cheek.
9. The plaintiff remained an in-patient in George Town hospital until the 2nd September 2013 when he was released into the care of his parents.
10. The plaintiff will require further treatment on his teeth and jaw and his recovery from his injuries in not complete. Medical reports will be provided in due course.

Past Medical Expenses

11. The plaintiff incurred medical expenses at George Town Hospital of CI\$26,232.85 between the date of the accident and the 12th December 2013 as itemized below;

Statement #	Date	Amount
6866625	3-Sep-13	\$23,791.41
6866632	3-Sep-13	\$58.85
6866630	3-Sep-13	\$88.00
6866631	3-Sep-13	\$180.40
6866629	3-Sep-13	\$48.40
6871493	13-Sep-13	\$88.00
6871492	13-Sep-13	\$225.48
6871491	13-Sep-13	\$88.97
6871490	13-Sep-13	\$14.72
6871488	13-Sep-13	\$72.86
6871485	13-Sep-13	\$88.00
6971484	13-Sep-13	\$13.71
6871485	13-Sep	\$170.76
6871487	13-Sep-13	\$164.09
6877952	26-Sep-13	\$222.41
6877953	26-Sep-13	\$7.00
6917315	12-Dec-13	\$223.39

6885532	14-Oct-13	\$88.00
6885531	13-Nov-13	\$438.60
6885533	13-Nov-13	\$159.80
Total		\$26,232.85

12. The plaintiff will incur further medical and dental expenses pre and post-trial and these will be particularized in due course.

Past and Future Gratuitous Care and Assistance

13. As a result of the plaintiff's injuries, the plaintiff required the care and assistance of his parents far over and above the level of care usually required for the plaintiff. The plaintiff was unable to eat, dress, bathe or care for himself independently post the accident.

14. Until his release from hospital on the 2nd September his parents had to attend hospital around the clock to ensure his well-being.

15. The plaintiff will continue to need additional care and assistance until such times as his injuries heal in full and a schedule of the amounts of daily care provided by his parents are annexed to this Statement of Claim with the claim to date being \$17,056.

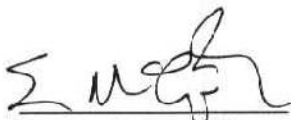
16. To the extent that the plaintiff has suffered any future handicap in the labour market such a claim will not be evident until such times as his injuries heal and medical reports are obtained.

17. The plaintiff will further claim the cost of administration of his award until his majority with the costs of same to be forwarded in due course.

11. The Claimant will claim interest pursuant to section 34 of the Judicature Law (2007 Revision);

AND THE PLAINTIFF claims:

1. General and Special Damages
2. Interest in accordance with the Judicature Law (2007 Revision)
3. Costs



Samson & McGrath
Attorneys for the Plaintiff

Schedule of Past Gratuitous Care and Assistance

26 August 2013 to 2nd September 2013

The plaintiff who was 10 years old was hospitalised from the 26th August 2013 until discharge on the 2nd September with serious injuries including fractures to his jaw, foot, leg and ribs. The plaintiff's parents maintained a constant presence at the hospital with at least one parent present at all times.

The plaintiff claims gratuitous care at the rate of CI\$13 per hour for this period.

7 days x 24 hours x \$13 = \$2,184.

3rd September to 10th November 2013

Upon his release from hospital the plaintiff resided with his parents at their home. On release he was in a full leg cast for his tibia fracture and his jaw was wired so that he was unable to eat or speak. He was unable to move at all and required 24 hour care again until his cast and jaw wiring were removed.

The plaintiff claims gratuitous care at the rate of CI\$13 per hour for this period.

68 days x 14 hours x \$13 = \$12,376

10th November 2013 to date of issue

The plaintiff continues to need additional assistance with chores and tasks. He requires help daily with his eating due to his jaw, with getting dressed. He is attending physio on average once or twice a week and requires to be collected from school and taken back at the end of the session. He is also attending with both Doctors and a Dentist for follow up appointments on his injuries. Again he requires collected from school and attendance with him at the appointments and returned to school.

The plaintiff makes a claim for 3 hours per day between these dates.

64 days x 3 hours x \$13 = \$2,496

Total claim for past Gratuitous Care and Assistance = \$17,056.

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE

OF WRIT OF SUMMONS

1. The accompanying form of Acknowledgment of Service should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495G, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings must also serve a defence on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant.

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

3. A Stay of Execution against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, issue a Summons for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by instalments or otherwise.

See over for notes for guidance

Please complete overleaf

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (the name stated on the Writ of Summons)".
4. Where the Defendant is a FIRM and an attorney is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
5. Where the Defendant is sued as an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
6. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE NO: OF 2014

BETWEEN:

GEOVANI OSVALDO SWABY
(ACTING BY HIS MOTHER AND NEXT FRIEND ISMARAY ESPINOSA PEREZ)

PLAINTIFF

AND:

MATTHEW CARLYLE EBANKS

DEFENDANT

ACKNOWLEDGMENT OF SERVICE
OF WRIT OF SUMMONS

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

-
1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

 2. State whether the Defendant intends to contest the proceedings (tick appropriate box)
 yes no

 3. If the claim against the Defendant is for a debt or liquidated demand, AND he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (tick box)
 yes no
-

Service of the Writ is acknowledged accordingly

(Signed).....

Attorney for

Please complete overleaf

Notes on address for service

Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

Indorsement by plaintiff's Attorney (or by plaintiff if suing in person) of his name, address and reference, if any, in the box below.

Samson & McGrath
Attorneys at Law
5th Floor Genesis Building
Genesis Close
PO Box 445
George Town
Grand Cayman

Indorsement by defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.